IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTIETH DAY OF MARCH
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 6062 of 2005

Between:

B.Maddaiah, S/o.B.Chinna Maddileti,
R/o.Ramakrishnapuram village, H/o.Palukur Gram Panchayat,
Banaganapalle Mandal, Kurnool District.

..... PETITIONER

AND

1 The State Election Commission of Andhra Pradesh, rep.by its State Election Commissioner, Hyderabad.
2 The District Collector, Kurnool Dt.Kurnool.
3 The District Panchayat officer, Kurnool District, Kurnool.
4 The Mandal Revenue officer, Banaganapalle Mandal, Kurnool District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a writ or order or direction, preferably one in the nature of writ of mandamus declaring the action of the respondents in issuing the final electoral roll 2005 of Palukur Gram Panchayat for the purpose of conducting election to fill up the causal vacancy post of Sarpanch by deleting number of voters, in not deleting names of dead persons, persons who are not residing in the village and without following the procedure contemplated under sec.11 of A.P.Panchayat Raj Act, 1994 and G.O.Ms.No.879, Panchayat Raj, Rural Development and Relief (Elec.I) Dept., dt.03-12-1994 as illegal, arbitrary, contrary to the mandatory provisions of the above said Act and rules and violative of Article 14, 19 and 21 of the constitution of India and consequently set aside the above said electoral rolls with a direction to the respondents to prepare fresh electoral rolls by duly following the procedure prescribed under the above said laws and pass such other order or orders.

Counsel for the Petitioner : MR. K.RATHANGA PANI REDDY

Counsel for the Respondent No.2 to 4: GP FOR PANCHAYAT RAJ & RURAL DEV.

Counsel for the Respondent No.1: Mr.C.P.Sarathy

The Court at the stage of admission made the following :

THE HON'BLE MS. JUSTICE G.ROHINI

WRIT PETITION NO.6062 OF 2005

ORDER:

The petitioner claims to be the resident of Ramakrishnapuram Village, Palukur Gram panchayat, and the said Gram panchayat consists of Palukur Village and its hamlets of Ramakrishnapuram, Goindinne, Devanagar with voters of about 8000. The Sarpanch of the Panchayat who faced disciplinary proceedings was removed by the District Collector by proceedings dated 20-01-2005 and consequently the Upa-Sarpanch has been continuing as Sarpanch. While so, the election for filling up the casual vacancy to the post of Sarpanch has been proposed to be conducted and news item to that effect has been published on 13-03-2005. The petitioner states that the detailed procedure as contemplated for preparation and publication of electoral rolls of the Gram panchayat as per Section 11 of the Panchayat Raj Act, 1994 (for short 'the Act') and the Rules made thereunder vide G.O.Ms.No.879 dated 3-12-1994 has not been followed and therefore if the respondents are allowed to proceed with the elections the same would be contrary to the mandatory provisions of the statute and it would defeat the object of the Act. It is alleged that the third respondent failed to publish the draft electoral roll in the

office of the Gram panchayat as required under the Act, however in the news item it was mentioned that the final electoral roll has been revised showing the total voters as 7595. The petitioner alleges that the names of several dead persons were included in the voters list and similarly the names of several persons who are not residing in the village were also included, whereas the names of several eligible voters were deleted. Hence, this writ petition seeking a declaration that the action of the respondents in issuing the final electoral roll without following the procedure provided under Section 11 of Act, and G.O.Ms.No.879 dated 3-12-1994 as arbitrary and illegal.

The petitioner contends that not only the draft electoral roll but even the final electoral roll has not been published and that the villages came to know about the electoral roll only from the news item dated 13-3-2005.

Section 11 of the Act provides for preparation and publication of electoral roll for a Gram panchayat. It is not in dispute that the said procedure applies for election even to fill up a casual vacancy. It is brought to my notice by the learned Government Pleader for Panchayat Raj appearing for the respondents that the scope and object of the Act has been considered by this Court in W.P.No.23099 of 2004 and W.P.No.23106 of 2004 and while disposing of the said writ petitions by common order it was held that the preparation of voters' list under Section 11 of the Act cannot be equated to the one under the Representation of Peoples Act and that the procedure and parameters differ substantially. It was also held that only one publication is contemplated under Section 11 of the Act and there is nothing in the Act or Rules which mandate that an electoral roll has to be published once again after considering the claims of the persons for inclusion or exclusion of their names in it. The said order of the learned Single Judge has been confirmed by the Division Bench by judgment dated 27-12-2004 in W.A.No.2143 of 2004.

In the light of the above legal position, the contention of the petitioner that the third respondent is required to publish the Draft Electoral Roll in terms of G.O.Ms.No.879, dated 3-12-1994 and after considering the objections, the Revised Electoral Roll shall be published before any Election Notification is issued, cannot

be accepted.

However, it is to be noted that the petitioner categorically states that there was no publication at all in the village. It is pleaded that they came to know about the revised voters list only from the news-item and even the final electoral roll was never published in the village. The correctness of such allegation cannot be enquired into by this Court while exercising the jurisdiction under Article 226 of the Constitution of India. In the circumstances, I deem it appropriate to direct the respondents 1 and 2 to look into the allegation made by the petitioner that the electoral roll was not at all published in the village and to take the necessary steps in accordance with law before issuing the Election Notification.

The Writ Petition is accordingly disposed of. No costs.

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30th March, 2005.

Note: CC by tomorrow.

(B/O)

gbs

To

1 The State Election Commissioner, State Election Commission of Andhra Pradesh, Hyderabad.
2 The District Collector, Kurnool Dt.Kurnool.
3 The District Panchayat officer, Kurnool District, Kurnool.
4 The Mandal Revenue officer, Banaganapalle Mandal, Kurnool District.

5. Two CCs to G.P. for Panchayat Raj & Rural Development, High Court of AP Bldgs, Hyderabad (OUT).

6. Two CD copies.